IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11141 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRAKASH SHANKARBHAI PRAJAPATI

Versus

STATE OF GUJARAT

Appearance:

MR NEHAL R JOSHI for Petitioner

MR HH PATEL, ASSTT. GOVERNMENT PLEADER for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 08/02/2001

ORAL JUDGEMENT

Heard learned Counsel for the parties. Petitioner was ordered to be detained as a dangerous person under the order dated 16th June, 2000 of the Police Commissioner,

Ahmedabad City. This order gives rise cause to the petitioner to come up before this Court by this petition under Article 226 of the Constitution. Manifold contentions have been raised by the learned Counsel for the petitioner, but as this petition deserves to be allowed only on one ground, it is not necessary to refer, consider and give findings on each contention.

It is contended that the statements of privilege witnesses were verified by the detaining authority on 15.6.2000 and on the very next day i.e. 16.6.2000, order of detention of the petitioner was made. In his submission, the detaining authority has acted mechanically in passing of the detention order of the petitioner. It is submitted that the detaining authority has mechanically exercised the powers conferred upon him under Section 9(2) of the PASA. In support of this contention, the learned Counsel for the petitioner placed reliance on the decision of this Court, but as the proposition of law laid down has not been disputed by the learned Counsel for the respondent, I am not referring this decision in this judgement.

This approach of the detaining authority to pass the order of detention on the very next day of the verification of the statements of privileged witnesses is certainly not in consonance with the rule of fair-play and natural justice. The claim of privilege under Section 9(2) of the Act, 1985 is wholly unjustified and the continued detention of the petitioner is certainly illegal and cannot be allowed to continue. In the result, the petition is allowed. The order of detention of the petitioner dated 16.6.2000 is quashed and set aside. The petitioner Prakash Shankarbhai Prajapati, the detenu, at present in Jamnagar District Jail, Jamnagar be set at liberty forthwith, if he is not required in any other case. Rule is made absolute. No order as to costs.

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